

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-174-MR-DSC**

**TERRY LEE McENTYRE,**

**Plaintiff,**

**vs.**

**C. PHILIP GINN, et al.,**

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendants' Motions to Dismiss [Docs. 7, 9, 12, 14]; the Magistrate Judge's Memorandum and Recommendation regarding the disposition of those Motions [Doc. 21]; and the Plaintiff's Responses [Docs. 22, 26] filed on October 17, 2012 and November 1, 2012, respectively.

The Defendants have filed motions to dismiss contending that the Plaintiff's Complaint, as originally filed and as amended, fails to state a claim upon which relief can be granted. [Docs. 7, 9, 12, 14]. Further, the Magistrate Judge has issued a Memorandum and Recommendation [Doc. 21], recommending that the Defendants' motions to dismiss the Plaintiff's Complaint be denied as moot and that the Defendants' motions to dismiss the

Plaintiff's Amended Complaint be granted. The Plaintiff was advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id.]. While the Plaintiff responded to the Magistrate Judge's Recommendation within the time for filing objections [Doc. 22], such response failed to make any specific objections to the Magistrate Judge's Recommendation.

On October 22, 2012, this Court entered an Order in accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising the Plaintiff of his obligation to file specific objections to the Magistrate Judge's Recommendation and giving him an extension of time, until November 1, 2012, to do so. [Doc. 25]. The Plaintiff filed an additional response within the time required [see Doc. 26]; however, such response also fails to make any specific objections to the Magistrate Judge's Recommendation.

The Court is required to make a *de novo* determination only of those portions of the Magistrate Judge's Recommendation to which a specific objection is made. 28 U.S.C. § 636(b)(1); United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007) ("to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the

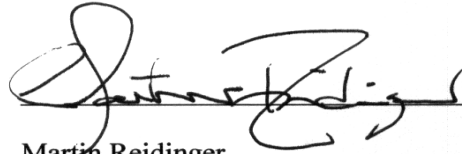
true ground for the objection”). The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections have been raised. Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). Additionally, the Court need not conduct a *de novo* review where a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

After a careful review of the Magistrate Judge's Recommendation [Doc. 21], the Court finds that the Magistrate Judge’s proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge’s Recommendation that the Defendants’ Motions to Dismiss the Plaintiff’s original Complaint be denied as moot and that the Defendants’ Motions to Dismiss the Plaintiff’s Amended Complaint be granted.

**IT IS, THEREFORE, ORDERED** that the Magistrate Judge’s Memorandum and Recommendation [Doc. 21] is **ACCEPTED**; the Defendants’ Motions to Dismiss [Docs. 7 and 9] are **DENIED AS MOOT**; and the Defendants’ Motions to Dismiss the Plaintiff’s Amended Complaint [Docs. 12 and 14] are **GRANTED**.

**IT IS SO ORDERED.**

Signed: November 12, 2012

  
Martin Reidinger  
United States District Judge

